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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/622,562

07/18/2003

Peter Ho

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07/07/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

PATEL, NIHIR B

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

07/07/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/622,562	Applicant(s) HO, PETER	
	Examiner NIHIR PATEL	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05.04.2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6,8-11,13-23,25-31 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-6,8-11,18,19,30,31 and 36-41 is/are allowed.
- 6) ☒ Claim(s) 13-17, 20-23, 25-29 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

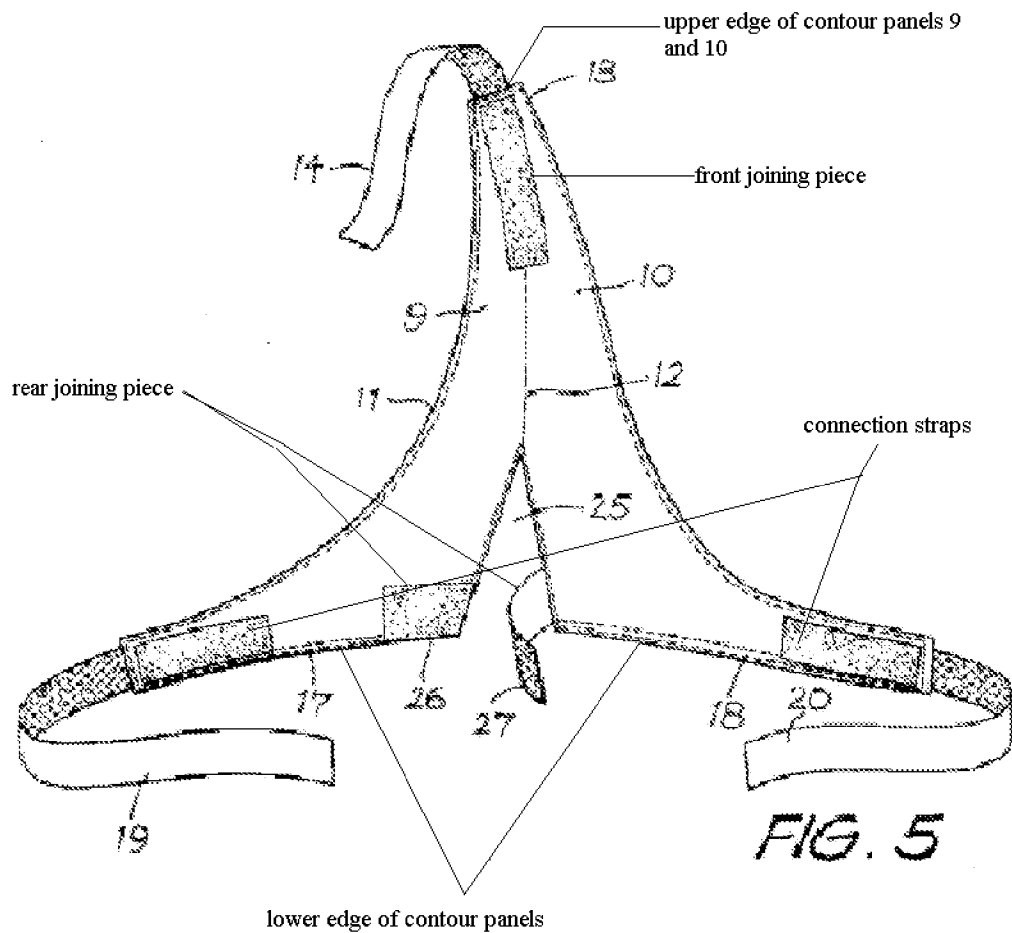
Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 4th, 2009 has been entered.

Response to Arguments

2. Applicant's arguments filed on May 4th, 2009 have been fully considered but they are not persuasive. The applicant argues that Lomas does not disclose "a plurality of contoured panels... wherein each contoured panel the length of the upper edge is shorter than the length of the lower edge,"; "a rear joining piece positionable along a rear portion of a patient's head, wherein the lower edge of each contoured panel is connected to the rear joining piece, and a front joining piece positionable along a front portion of such a patient head, wherein the upper edge of each contoured panel is connected to the front joining piece" and "wherein the connecting strap extends from either the rear joining piece or the front joining piece. The examiner disagrees with the applicant's argument (See figure 5 below).

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As shown in the above figure 5 of the Lomas reference, Lomas does disclose “a plurality of contoured panels... wherein each contoured panel the length of the upper edge is shorter than the length of the lower edge,”; “a rear joining piece positionable along a rear portion of a patient’s head, wherein the lower edge of each contoured panel is connected to the rear joining piece, and a front joining piece positionable along a front portion of such a patient head, wherein the upper edge of each contoured panel is connected to the front joining piece” and “wherein the connecting strap extends from either the rear joining piece or the front joining piece.

Response to Amendment

3. The examiner acknowledges the amendment filed on May 4th, 2009. The amendment comprises amending claims 2, 13, 18, 21, 25, 30, 33, 36, 38 and 40; and cancelling claims 1, 7, 12, 24 and 32. Thus, claims 2-6, 8-11, 13-23, 25-31 and 33-41 are pending.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims **13-17, 20-23, 25-29 and 33-35** are rejected under 35 U.S.C. 102(b) as being anticipated by Lomas (US 5,542,128).

6. **As to claims 13 and 21**, Lomas teaches an apparatus that comprises a patient interface device **1 (see fig. 2; col. 2 lines 20-30)** adapted to fit over a portion of a patient and having a connector element; a headpiece **8 (see fig. 2)**; and a connecting strap **19 and 20 (see figs. 5 and 6)** attached to the headpiece and adapted to releasably connect the headgear to the connector element **(see fig. 2)**; wherein the headpiece comprise a plurality contoured panels **(see fig. 5 above)**, each panel including an upper edge having a length and a lower edge having a length **(see fig. 5 above)**, wherein each contoured panel the length of the upper edge is shorter than the length of the lower edge **(see fig. 5 above)**; a rear joining piece positionable along a rear portion of a patient's head **(see fig. 2 and fig. 5 above)**; wherein the lower edge of each contoured panel is connected to the rear joining piece **(see fig. 2 and fig. 5 above)**; and a front joining piece positionable along a front portion of such a patient's head **(see fig. 2 and fig. 5 above)**, wherein

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the upper edge of each contoured panel is connected to the front joining piece (**see fig. 2 and fig. 5 above**), wherein the connecting strap extends from either the rear joining piece or the front joining piece (**inherently connecting straps are connected to the rear joining piece because they both have to interact with each other**).

7. **As to claims 14 and 26**, Lomas teaches an apparatus wherein the connecting strap **14** is an upper connecting strap attached to the front joining piece and adapted to releasably connect the headgear to the patient interface device (**strap 14 can also be defined as connecting strap; see figs. 2 and 5 above**).

8. **As to claims 15 and 27**, Lomas teaches an apparatus that further comprises a lower connecting strap attached to the rear joining piece and adapted to releasably connect the headgear to the patient interface device (**see fig. 2 and fig. 5 above**).

9. **As to claims 16 and 28**, Lomas teaches an apparatus wherein the upper and lower connecting straps include hook and loop components for adjustably connecting the headgear to the patient interface device (**see figures 3-6; col. 3 lines 25-30**).

10. **As to claims 17 and 29**, Lomas teaches an apparatus wherein the upper and the lower connecting straps include a loop fastener portion on the exterior thereof and an end portion having a hook tab portion, and wherein each hook tab portion is threaded through the connecting element of the patient interface device and secured to the loop fastener portion (**see figures 3-6; col. 3 lines 25-30**).

11. **As to claim 20**, Lomas teaches an apparatus wherein each of the first and the second contoured panels has an arch shape having an upper edge having a concave curvature and a lower edge having a convex curvature (**see figures 3-6**).

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12. **As to claims 22 and 34**, Lomas teaches an apparatus that further comprises a stabilizer attached to the headpiece and adapted to stabilize a conduit connected to the patient interface device (**see figure 2**).

13. **As to claims 23 and 35**, Lomas teaches an apparatus wherein the patient interface device is a nasal mask, a nasal/oral mask or a full face mask (**see figure 2**).

14. **As to claims 25 and 33**, Lomas teaches an apparatus that comprises a gas flow generating device that produces a flow of gas (**see figure 2**); a conduit having a first end portion operatively coupled to the gas flow generating device and a second end portion (**see figure 2**), wherein the conduit carries the flow of gas from the gas flow generating device during operation of the system; a patient interface device **1** (**see fig. 2; col. 2 lines 20-30**) coupled to the second end portion of the conduit; the patient interface device having a connector element; and a headgear comprising a headpiece **8**; and a connecting strap **14, 19 and 20** (**see fig. 2 and fig. 5 above**) attached to the headpiece and adapted to releasably connect the headgear to the connector element (**see figure 2**); wherein the headpiece comprises a rear joining piece positionable along a rear portion of a patient's head (**see fig. 2 and fig. 5 above**); and a front joining piece positionable along a front portion of such a patient's head (**see figure 2 and fig. 5 above**), and a first contoured panel **9** and a second contoured panel **10**, wherein each of the first and second contoured panels extend from the rear joining piece to the front joining piece (**see fig. 2 and fig. 5 above**), each of the first and second contoured panels including an upper edge having a length and a lower edge having a length, wherein each of the first and second contoured panels the length of the upper edge is shorter than the length of the lower edge (**see fig. 2 and fig. 5 above**) and wherein each lower edge is connected to the rear joining panel and each upper edge is

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connected to the front joining panel, wherein the connecting strap extends from either the rear joining piece or the front joining piece (**see fig. 2 and fig. 5 above**).

Allowable Subject Matter

15. Claims **2-6, 8-11, 18, 19, 30, 31 and 36-41** are allowed. The prior art does not disclose a crossover strap extending from one of contoured panels and adapted to extend to another one of the contoured panels.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Nihir Patel/

Examiner, Art Unit 3772

/Patricia Bianco/

Supervisory Patent Examiner, Art Unit 3772